

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

DROPBOX, INC.,

Plaintiff/Counter-Defendant,

v.

MOTION OFFENSE, LLC,

Defendant/Counter-Plaintiff.

CIVIL ACTION NO. 6:20-cv-00251-ADA

MOTION OFFENSE, LLC

Plaintiff,

v.

DROPBOX, INC.,

Defendant.

CIVIL ACTION NO. 6:21-cv-00758-ADA

ORDER ON DISCOVERY DISPUTE

The Court hereby resolves the following discovery dispute submitted by email. The parties dispute the proper scope of examination Mr. Pranesh Pandurangan, a third party subpoenaed by Motion Offense and whose deposition Motion Offense suspended, pending the Court's guidance.

Motion Offense's Position

Motion Offense deposed third-party Mr. Pandurangan on April 27, 2022. It did so pursuant to Motion Offense's subpoena requesting only testimony. Mr. Pandurangan was represented by Dropbox's counsel. Around 10 pm ET on April 26, 2022, counsel for both Mr. Pandurangan and Dropbox produced documents purporting to be from Mr. Pandurangan without metadata that allegedly were from years before his employment at Dropbox.

During the deposition, Motion Offense questioned Pandurangan on his responsibilities, Dropbox's team structures, competitors, documentation, and Dropbox's functionality and features during the time of his employment. After Motion Offense's examination, Dropbox's counsel stated it would question Mr. Pandurangan regarding the documents it had produced the prior night. Motion Offense objected based on Fed. R. Evid. 611(b) and Fed. R. Civ. P. 30(d). Dropbox declined to question him on other matters without using its recent production. Motion Offense then suspended the deposition, with the parties making their respective objections on the record.

Requested Relief: Motion Offense requests Dropbox's examination of Mr. Pandurangan be limited to exclude questioning regarding the documents produced the night before his deposition and questioning regarding Dropbox prior to his employment. Alternatively, Motion Offense requests leave to file a motion to limit examination so that it can fully articulate its position and support, including citations to the deposition transcript.

Dropbox's Position

On April 27, 2022, Motion Offense took the deposition of former Dropbox employee, Mr. Pandurangan, pursuant to a subpoena for testimony only, requesting production of no documents. After Motion Offense's examination, Motion Offense suspended the deposition. Motion Offense objected to questioning on the basis that (1) Dropbox's questions were outside the scope and (2) the timing of the third-party production was "prejudicial and oppressive."

Mr. Pandurangan voluntarily produced 17 documents (16 emails and one attachment) totaling 20 pages the night before his deposition. These emails were produced in PDF and did not need to be loaded to a document review vendor in order to be viewed. Dropbox's intended questions were fully within the scope of Motion Offense's examination. Given the size of the

production, the fact all but one document was a short email (including all five documents Dropbox sought to use), and the fact that Mr. Pandurangan is a third-party from whom documents were not even requested, there is nothing “prejudicial and oppressive” to Motion Offense.

Requested Relief: First, permitting Dropbox to question Mr. Pandurangan regarding the emails he produced. Second, permitting the continued deposition of Mr. Pandurangan to take place after he returns to the United States in June (he departs on April 30 for India). Third, ordering Motion Offense to pay for the second deposition. Fourth, ordering Motion Offense to pay Dropbox’s fees to bring this motion.

ORDER

IT IS HEREBY ORDERED that the deposition of Mr. Pandurangan will continue after he returns to the United States in June. Before then, Dropbox will produce to Motion Offense all of the documents provided by Mr. Pandurangan in native format with accompanying metadata. To the extent documents in native format are difficult to read, a PDF format version will also be provided, also including metadata. Dropbox’s counsel will be allowed to question Mr. Pandurangan about the documents and that subject matter. Motion Offense will be allowed to re-examine Mr. Pandurangan following Dropbox counsel’s questions. No fees will be assessed in relation to this deposition.

SO ORDERED this 23rd day of May.



DEREK T. GILLILAND
UNITED STATES MAGISTRATE JUDGE